

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305, titled Medical Dispute Resolution-General, and 133.307, titled Medical Dispute Resolution of a Medical Fee Dispute, a review was conducted by the Medical Review Division regarding a medical fee dispute between the requestor and the respondent named above.

I. DISPUTE

1. a. Whether there should be reimbursement of \$262.07 for date of service 12/21/01.
- b. The request was received on 04/22/02.

II. EXHIBITS

1. Requestor, Exhibit I:
 - a. TWCC 60 and Letter Requesting Dispute Resolution
 - b. TWCC 66a
 - c. TWCC 62 forms
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
2. Respondent, Exhibit II:
 - a. Response to a Request for Dispute Resolution
 - b. TWCC-66a(s)
 - c. TWCC 62 forms
 - d. Any additional documentation submitted was considered, but has not been summarized because the documentation would not have affected the decision outcome.
3. Per Rule 133.307 (g) (3), the Division forwarded a copy of the requestor's 14 day response to the insurance carrier on 06/26/02. Per Rule 133.307 (g) (4), the carrier representative signed for the copy on 06/26/02. The response from the insurance carrier was received in the Division on 07/02/02. Based on 133.307 (i) the insurance carrier's response is timely.
4. Notice of Additional Information is reflected as Exhibit III of the Commission's case file.

III. PARTIES' POSITIONS

1. Requestor: Letter dated 06/15/02

“The disputed issue is that the Carrier has denied the claim stating ‘N’ documentation has not been submitted to substantiate dispensing this medication prior to previous

prescription being exhausted. We resubmitted the claim to the Carrier requesting reconsideration. The Carrier again denied payment as an early refill.”

2. Respondent: Letter dated 07/02/02

“It is this carrier’s position reimbursement was made was made for 15 day supply of promethazine and Vanadom on 11/30/01 and 12/12/0[sic]. Therefore, the medical necessity for the medications 10 days post purchase of 15 day supply of medication is not apparent.”

IV. FINDINGS

1. Based on Commission Rule 133.307(d) (1) (2), the only date of service eligible for review is 12/21/01.
2. The explanation of denial listed on the EOB is “ERLY-N-DOCUMENTATION HAS NOT BEEN SUBMITTED TO SUBSTANTIATE DISPENSING THIS MEDICATION PRIOR TO PREVIOUS PRESCRIPTION BEING EXHAUSTED.”
- 3 The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT or Revenue CODE	BILLED	PAID	EOB Denial Code	MARS	REFERENCE	RATIONALE:
12/2/01	Promethazine 25 mg #60	\$24.30	\$0.00	N	AWP/unit x number units x 1.09 +\$4.00	MFG; Pharmaceutical Fee Guideline; (I)(II)	Neither the MFG PFG nor the TWCC Rules address the issue whether a prescription can be refilled early. Since the Rules are silent on the issue, reimbursement is recommended in the amount of \$24.30 .
12/21/01	Vanadom 350 mg #60	\$237.77	\$0.00	N	AWP/unit x number units x 1.09 +\$4.00	MFG; Pharmaceutical Fee Guideline; (I)(II)	Neither the MFG PFG nor the TWCC Rules address the issue whether a prescription can be refilled early. Since the Rules are silent on the issue, reimbursement is recommended in the amount of \$237.77 .
Totals		\$262.07	\$0.00				The Requestor is entitled to reimbursement in the amount of \$262.07 .

V. ORDER

Pursuant to Sections 402.042, 413.016, 413.031, and 413.019 the Medical Review Division hereby ORDERS the Respondent to remit \$262.07 plus all accrued interest due at the time of payment to the Requestor within 20 days receipt of this order.

This Order is hereby issued this 26th day of February 2003.

Michael Bucklin
Medical Dispute Resolution Officer
Medical Review Division
MB/mb